

## ENVIRONMENTAL PROTECTION COMMISSION[567]

### Notice of Intended Action

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code sections 455B.105 and 455B.173, the Environmental Protection Commission (EPC) hereby gives Notice of Intended Action to amend Chapter 61, “Water Quality Standards,” Iowa Administrative Code.

The proposed amendment revises subrule 61.3(5) to adopt by reference a revised Surface Water Classification document. The revised and updated Surface Water Classification reflects use designations which have been determined through fieldwork and the completion of a use attainability analysis (UAA) and includes a change from the presumed use of primary contact recreation to a determined use of secondary contact recreation.

The Surface Water Classification document adopted by reference in the proposed amendment will:

1. Revise and list approximately eight stream segments as Class A1 primary contact recreational use designated waters.
2. Revise and list approximately one stream segment as Class A1 primary contact recreational use and Class B(WW-1) warm water—Type 1 aquatic life use designated waters.
3. Revise and list approximately eight stream segments as Class A1 primary contact recreational use and Class B(WW-2) warm water—Type 2 aquatic life use designated waters.
4. Revise and list approximately two stream segments as Class A2 secondary contact recreational use designated waters.
5. Revise and list approximately 36 stream segments as Class A2 secondary contact recreational use and Class B(WW-2) warm water—Type 2 aquatic life use designated waters.
6. Revise and list approximately four stream segments as Class A2 secondary contact recreational use and Class B(WW-3) warm water—Type 3 aquatic life use designated waters.
7. Revise and list approximately five stream segments as Class A3 children’s recreational use designated waters.
8. Revise and list approximately 16 stream segments as Class A3 children’s recreational use and Class B(WW-2) warm water—Type 2 designated waters.
9. Revise and list approximately two streams to match the U.S. Geological Survey (USGS) title.
10. Revise and list approximately two streams that were adopted in previous EPC rule makings but which were omitted from the Surface Water Classification document.
11. Revise the legal descriptions of approximately 51 stream segments. These are not individually listed as designation changes, but the changes are shown in the Surface Water Classification document.

The Clean Water Act establishes a rebuttable presumption that all Iowa streams can achieve the highest level of use, referred to as fishable and swimmable uses. In 2006, the EPC adopted this presumption by rule for all of Iowa’s previously undesignated perennial streams. As an outcome of these efforts, all 26,000 miles of Iowa’s perennial (flowing year-round) streams were initially designated at the highest levels for recreation (A1) and warm water aquatic life uses (B(WW-1)). These actions provided initial protection for many miles of perennial streams that were previously not designated for aquatic life or recreational uses.

“Rebuttable presumption” is the concept that provides for the assigning of all perennial streams the highest use designation unless assessments show that a stream does not deserve that level of protection. Included in the federal regulations are the provisions that allow for scientific analysis of these “presumed” recreational and aquatic life uses. The process of assigning use designations is called use attainability

analysis (UAA), which requires the gathering of site-specific field data on stream features and uses. The Department of Natural Resources (Department) is applying the UAA as a step-by-step process to gather site-specific field data on stream features and uses. The Department assesses available information to determine if the “presumed” recreational and aquatic life uses are appropriate.

Iowa Code section 455B.176A prohibits the Department from renewing a National Pollutant Discharge Elimination System (NPDES) permit for a facility discharging to a stream subject to the presumed protected uses of A1 and B(WW-1) until the Department conducts a UAA and redesignates the stream, if appropriate. Prior to issuing an NPDES permit for an affected facility, the Department must complete a UAA for the receiving stream or stream network. Below is a list of the proposed stream segment revisions completed as a result of either field assessments conducted from 2005 to 2012 or based on administrative changes. (Duplicate listings represent separate segments along the overall reach of the stream. For Chihaks Creek, the double listing represents two distinct revisions to the stream, one of which is an administrative name change only.) Specific locations of these stream segments can be found in the draft Surface Water Classification document and by using the GIS coverage at the following Web page: <http://www.iowadnr.gov/InsideDNR/RegulatoryWater/WaterQualityStandards/DesignatedUses/UseAssessments.aspx>.

In addition, each stream listed in the preamble of this Notice can be viewed in detail on the UAA database at the following link: <https://programs.iowadnr.gov/uaa/search.aspx>.

The proposed stream segment revisions are detailed below:

1. Class A1 Stream Segments

	Stream Name	UAA ID	Basin	Class A1 Stream Segment Length (miles)	Aquatic Stream Segment Length (miles)
1	Blue Creek (Benton/Linn Counties)	508	Iowa-Cedar	5.50	NA
2	Camp Creek (Calhoun County)	1416	Des Moines	8.3	NA

	Stream Name	UAA ID	Basin	Class A1 Stream Segment Length (miles)	Aquatic Stream Segment Length (miles)
3	Dye Creek (Story County)	1461	Skunk	1.0	NA
4	East Indian Creek (Story County)	1460	Skunk	8.2	NA
5	Price Creek (Iowa County)	NA	Iowa-Cedar	0.3	NA
6	South English River (Poweshiek/Mahaska/Keokuk/Washington Counties)	1453	Iowa-Cedar	10.6	NA
7	West Fork Camp Creek (Calhoun County)	1415	Des Moines	7.0	NA
8	White Fox Creek (Wright/Hamilton Counties)	1466	Des Moines	12.1	NA

2. Class A1, B(WW-1) Stream Segments

	Stream Name	UAA ID	Basin	Class A1 Stream Segment Length (miles)	B(WW-1) Aquatic Stream Segment Length (miles)
1	Saylor Creek (Polk County)	1466	Des Moines	<0.1	<0.1

3. Class A1, B(WW-2) Stream Segments

	<b>Stream Name</b>	<b>UAA ID</b>	<b>Basin</b>	<b>Class A1 Stream Segment Length (miles)</b>	<b>B(WW-2) Aquatic Stream Segment Length (miles)</b>
1	Cub Creek (Poweshiek County)	1427	Iowa-Cedar	<0.1	<0.1
2	Drainage Ditch 29 (Fonda, City of, STP) (Pocahontas County)	1419	Des Moines	0.5	0.5
3	Dry Run (O'Brien County)	1473	Western	8.8	8.8
4	East Branch Blue Creek (Linn County)	1499	Iowa-Cedar	4.0	4.0
5	Fox Creek (Dallas County)	1457	Des Moines	2.4	2.4
6	Unnamed Creek (Firestone Agricultural Tire Company) (Polk County)	1485	Des Moines	0.9	0.9
7	Unnamed Creek (Lanesboro, City of, STP) (Carroll County)	1413	Des Moines	0.1	0.1
8	Unnamed Creek (Pella Corp.) (Marion County)	1422	Des Moines	<0.1	<0.1

#### 4. Class A2 Stream Segments

	<b>Stream Name</b>	<b>UAA ID</b>	<b>Basin</b>	<b>Class A2 Stream Segment Length (miles)</b>	<b>Aquatic Stream Segment Length (miles)</b>
1	Chihaks Creek (Howard County)	NA	Northeastern	1.06	NA
2	Deep River (Poweshiek/Iowa Counties)	1429	Iowa-Cedar	7.5	NA

#### 5. Class A2, B(WW-2) Stream Segments

	<b>Stream Name</b>	<b>UAA ID</b>	<b>Basin</b>	<b>Class A2 Stream Segment Length (miles)</b>	<b>B(WW-2) Aquatic Stream Segment Length (miles)</b>
1	Brushy Creek (Carroll/Audubon/Guthrie Counties)	1071	Des Moines	4.04	4.04
2	Cub Creek (Poweshiek County)	1426	Iowa-Cedar	3.3	3.3
3	Drainage Ditch (Adair, City of, STP) (Adair County)	1495	Des Moines	0.2	0.2
4	Drainage Ditch 2 (I35-105 Interchange Commercial District) (Worth County)	1409	Iowa-Cedar	9.4	9.4
5	East Branch Blue Creek (Linn County)	1500	Iowa-Cedar	4.2	4.2
6	Granger Creek (Dubuque County)	1476	Northeastern	0.5	0.5
7	Little Creek (Iowa/Keokuk Counties)	1455	Iowa-Cedar	6.1	6.1
8	Middle English River (Iowa County)	1452	Iowa-Cedar	10.2	2.8
9	Painter Creek (Madison/Warren Counties)	1420	Des Moines	7.9	7.9
10	Soap Creek (Lee County)	949	Skunk	0.94	0.94
11	South English River (Poweshiek/Mahaska/Keokuk/Washington Counties)	1454	Iowa-Cedar	21.8	6.1
12	Spring Creek (Des Moines County)	NA	Iowa-Cedar	3.76	3.76

	<b>Stream Name</b>	<b>UAA ID</b>	<b>Basin</b>	<b>Class A2 Stream Segment Length (miles)</b>	<b>B(WW-2) Aquatic Stream Segment Length (miles)</b>
13	Unnamed Creek (Country Living Court, LLC) (Story County)	1462	Skunk	0.2	0.2
14	Unnamed Creek (Deep River, City of, WWTP) (Poweshiek County)	1428	Iowa-Cedar	1.5	1.5
15	Unnamed Creek (Earling, City of, STP) (Shelby County)	1498	Western	<0.1	<0.1
16	Unnamed Creek (East Iowa Bible Camp) (Iowa County)	1450	Iowa-Cedar	2.9	2.9
17	Unnamed Creek (Fonda, City of, WWTP) (Pocahontas County)	1417	Des Moines	0.2	0.2
18	Unnamed Creek (Kwik Star #303) (Poweshiek County)	1425	Iowa-Cedar	1.9	1.9
19	Unnamed Creek (Lanesboro, City of, STP) (Carroll County)	1414	Des Moines	1.2	1.2
20	Unnamed Creek (Pella Corp.) (Marion County)	1421	Des Moines	0.5	0.5
21	Unnamed Creek (Primghar, City of, STP) (O'Brien County)	1472	Western	<0.1	<0.1
22	Unnamed Creek (Webster City, City of, WWTP)	1501	Des Moines	<0.1	<0.1
23	Unnamed Creek (Wendling Quarries – Robins Facility) (Linn County)	1479	Iowa-Cedar	0.3	0.3
24	Unnamed Creek #1 (Des Moines International Airport Outfall #2) (Polk County)	1490	Des Moines	0.8	0.8
25	Unnamed Creek #1 (New Albin, City of, STP) (Allamakee County)	979	Northeastern	0.47	0.47
26	Unnamed Creek #2 (Adair, City of, STP) (Guthrie County)	1496	Des Moines	1.4	1.4
27	Unnamed Creek #2 (Atkins, City of, WTF) (Benton County)	1502	Iowa-Cedar	1.2	1.2
28	Unnamed Creek #2 (Des Moines International Airport Outfall #2) (Polk County)	1491	Des Moines	0.2	0.2
29	Unnamed Creek #2 (John Deere Engine Works) (Black Hawk County)	1481	Iowa-Cedar	<0.1	<0.1
30	Unnamed Creek #2 (Neal Smith National Wildlife Refuge) (Jasper County)	1516	Des Moines	2.0	2.0
31	Unnamed Creek #3 (Adair, City of, STP) (Adair/Guthrie Counties)	1497	Des Moines	1.9	1.9
32	Unnamed Creek #3 (Macksburg, City of, STP) (Madison County)	1489	Southern	0.3	0.3
33	Unnamed Creek #4 (Des Moines International Airport Outfall #2) (Polk County)	1493	Des Moines	<0.1	<0.1
34	West Fork Big Creek (Ringgold County)	1471	Southern	10.2	10.2
35	West Jackson Creek (Wayne County)	1487	Southern	2.5	2.5
36	White Fox Creek (Wright/Hamilton Counties)	1467	Des Moines	15.8	15.8

6. Class A2, B(WW-3) Stream Segments

	Stream Name	UAA ID	Basin	Class A2 Stream Segment Length (miles)	B(WW-3) Aquatic Stream Segment Length (miles)
1	Rock Creek (Jefferson/Wapello Counties)	NA	Skunk	12.01	8.48
2	Unnamed Creek (Iowa DOT – 21, 22 & I-80 Rest Stop) (Dallas County)	1456	Des Moines	0.4	0.4
3	Unnamed Creek (New Hartford, City of, WWTP) (Butler County)	1470	Iowa-Cedar	0.1	0.1
4	Unnamed Creek #1 (West Point, City of, STP) (Lee County)	1284	Skunk	0.88	0.88

7. Class A3 Stream Segments

	Stream Name	UAA ID	Basin	Class A2 Stream Segment Length (miles)	Aquatic Stream Segment Length (miles)
1	Buttermilk Creek (Wright County)	1465	Des Moines	0.5	NA
2	Dry Creek (Linn County)	1480	Iowa-Cedar	8.2	NA
3	West Branch Floyd River (Plymouth/Sioux Counties)	1401	Western	4.41	NA
4	West Branch Floyd River (Plymouth/Sioux Counties)	1403	Western	3.37	NA
5	West Branch Floyd River (Plymouth/Sioux Counties)	1405	Western	2.74	NA

8. Class A3, B(WW-2) Stream Segments

	Stream Name	UAA ID	Basin	Class A2 Stream Segment Length (miles)	B(WW-2) Aquatic Stream Segment Length (miles)
1	Blackhawk Creek (Scott County)	833	Northeastern	5.45	5.45
2	Coon Creek (Tama County)	1468	Iowa-Cedar	0.5	0.5
3	Gypsum Creek (Webster County)	1463	Des Moines	1.3	1.3
4	Soap Creek (Lee County)	948	Skunk	2.84	2.84
5	Unnamed Creek (aka, 7th Ward Ditch) (Polk County)	152	Des Moines	5.2	5.2
6	Unnamed Creek (Clow Valve) (Mahaska County)	1424	Skunk	1.0	1.0
7	Unnamed Creek (Corn LP) (Wright County)	1464	Des Moines	0.3	0.3
8	Unnamed Creek (Des Moines International Airport Outfall #3) (Polk County)	1459	Des Moines	1.0	1.0
9	Unnamed Creek (Nevada, City of, WWTP) (Story County)	1412	Skunk	0.03	0.03
10	Unnamed Creek (Pella Corp.) (Marion County)	1423	Des Moines	0.3	0.3

	<b>Stream Name</b>	<b>UAA ID</b>	<b>Basin</b>	<b>Class A2 Stream Segment Length (miles)</b>	<b>B(WW-2) Aquatic Stream Segment Length (miles)</b>
11	Unnamed Creek (Tama Paperboard) (Tama County)	1474	Iowa-Cedar	0.7	0.7
12	Unnamed Creek (University of Northern Iowa) (Black Hawk County)	1469	Iowa-Cedar	0.2	0.2
13	Unnamed Creek #2 (Atkins, City of, WTF) (Benton County)	1503	Iowa-Cedar	0.3	0.3
14	Unnamed Creek #3 (John Deere Engine Works) (Black Hawk County)	1482	Iowa-Cedar	1.2	1.2
15	Unnamed Creek #4 (John Deere Engine Works) (Black Hawk County)	1484	Iowa-Cedar	0.5	0.5
16	Yeader Creek (Polk County)	1458	Des Moines	0.5	0.5

#### 9. Administrative Name Changes

	<b>Stream Name</b>	<b>UAA ID</b>	<b>Basin</b>	<b>Stream Segment Length (miles)</b>	<b>Aquatic Stream Segment Length (miles)</b>
1	Chialk Creek to Chihaks Creek (Howard County)	1268	Northeastern	NA	NA
2	West Indian Creek (Story County)	1002	Skunk	NA	NA

#### 10. Omitted Stream Segments\*

	<b>Stream Name</b>	<b>UAA ID</b>	<b>Basin</b>	<b>Stream Segment Length (miles)</b>	<b>Aquatic Stream Segment Length (miles)</b>
1	Middle Branch Boone River (Wright/Hancock Counties)	NA	Des Moines	11.50	4.0
2	Unnamed Creek #1 (Calmar, City of, STP) (Winnebago County)	NA	Northeastern	1.40	1.40

\*Stream segments that were previously approved by EPC but omitted from the Surface Water Classification document.

Any person may submit written suggestions or comments on the proposed amendment through March 27, 2015. If a comment is intended to describe recreational activities occurring on specific stream segments, the comment must specify: (1) the type of water recreational activity(ies) (e.g., canoeing, children's play, minnow seining, etc.); (2) where the activity(ies) took place (e.g., bridge crossing, park, etc.) using section/township/range, latitude/longitude, address, or map; and (3) the time period and frequency of the activity(ies) (e.g., once a month in the summer). Such written material should be submitted to Matthew Dvorak, Iowa Department of Natural Resources, Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319; fax (515)725-8202; or e-mail [matthew.dvorak@dnr.iowa.gov](mailto:matthew.dvorak@dnr.iowa.gov). Persons who have questions may contact Matthew Dvorak at (515)725-8397.

Persons are invited to present oral or written comments at a series of public hearings, which will be held throughout the state as follows:

March 10, 2015	9 a.m.	Atlantic Municipal Utilities Conference Room 15 W. 3rd Street Atlantic
March 10, 2015	2:30 p.m.	West Des Moines Public Library 4000 Mills Civic Parkway West Des Moines
March 17, 2015	9:30 a.m.	Falcon Civic Center 1305 5th Avenue NE Independence
March 17, 2015	3 p.m.	Washington Public Library 115 West Washington Street Washington
March 24, 2015	10 a.m.	Clear Lake Community Meeting Room 15 N. 6th Street Clear Lake
March 24, 2015	3:30 p.m.	Spencer Public Library 21 E. 3rd Street Spencer

Any person who plans to attend a public hearing and has special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

A jobs impact statement (JIS) has been prepared for this Notice and is available upon request. The Department believes the rule making will not impact jobs since adoption of this amendment does not add to the burden or cost established by the 2006 rule making. Wastewater treatment facilities in Iowa, particularly local government-owned wastewater facilities, have been significantly impacted by the 2006 water quality standard revisions. Adoption of the proposed amendment will not add to the burden or cost established by the 2006 rule making but does allow for the implementation of those prior requirements. Based upon the number of facilities impacted by this amendment, it is estimated that between \$46 million and \$64 million will be spent on facility upgrades. These upgrades will be implemented upon approval of the renewed NPDES permit for the facility. These figures may change based upon other factors, including inflation and varying construction costs.

It is important to understand that by revising the stream designations to reflect the appropriate uses, rather than the presumed uses, the proposed amendment will not increase the potential compliance costs for any necessary facility upgrades in any way. When compared to the costs of implementation of the presumed uses, the cost of implementing the revised designations will always be the same or less.

Additional information on Iowa's water quality standards, including the JIS and detailed maps of the stream assessments, can be found on the Department's Web site at <http://www.iowadnr.gov/InsideDNR/RegulatoryWater/WaterQualityStandards/DesignatedUses/UseAssessments.aspx>.

This amendment is intended to implement Iowa Code chapter 455B, division III, part 1.

The following amendment is proposed.

Amend subrule 61.3(5) as follows:

**61.3(5) Surface water classification.** The department hereby incorporates by reference "Surface Water Classification," effective ~~December 22, 2010~~ [insert the effective date of this amendment]. This document may be obtained on the department's Web site at <http://www.iowadnr.com/water/standards/index.html> <http://www.iowadnr.gov/InsideDNR/RegulatoryWater/WaterQualityStandards/Rules.aspx>.